Opposition to MD SB222/HB284 - Producer Responsibility Act

Wine Institute is a public policy association representing more than 1,000 California wineries. Responsible for 80% of domestic wine production, the California wine industry is committed to sustainability. Nearly 80% of California wine is certified under a statewide sustainability program encouraging packaging with recycled content, reusability, takeback or recyclable packaging, and non-toxic materials. We support greater recovery of wine packaging and are committed to efficient, cost-effective methods for handling wine packaging, but Wine Institute cannot support SB222/HB284, which are problematic in their approach.

These bills shift the cost of Maryland's collection and recycling system for wine containers and other packaging materials to a mandatory producer responsibility organization (PRO) without granting the PRO autonomy to run recycling programs efficiently. There is costly government oversight and involvement, for which the PRO must foot the bill. Further, the bills provide no shared responsibility for consumers to become good stewards of packaging, which is crucial to a healthy recycling system. In the end, a hefty government price tag for modernizing an outdated and inefficient recycling system will be passed along to Maryland consumers in the form of higher prices and potentially less selection.

SB222/HB284 contain an important provision we support – a new requirement for a statewide recycling needs assessment. However, unlike current law and that proposed under this legislation, such an assessment must occur more frequently than every 10 years, and include the insight and expertise of industry members, not merely staff in the Office of Recycling. Further, any preliminary assessment must be completed prior to passage of new laws to ensure they solve and do not create new problems.

1) Effective EPR programs are industry-run with government oversight, not involvement

It is most efficient for a PRO to have autonomy to decide all issues relating to the recovery and recycling of the materials they utilize. State involvement should be limited to approving an initial PRO plan, conducting compliance audits and reviewing subsequent PRO plans every five years.

Further, the fees that producer members pay a PRO should be used for the core mission of recycling covered products; they should not be paid to the Office of Recycling to conduct assessments. Driven by rising costs and supply chain limitations, producers are already assessing their packaging and striving to increase recycling rates and post-consumer recycled content. What producers need is a vehicle to lawfully collaborate on such efforts without triggering anti-trust concerns. Government involvement triggers fees and unnecessary oversight.

Domestic wineries have been battered by COVID-19 tasting room restrictions and shutdowns, unprecedented wildfires and trade tariffs. Losses to the US wine industry due in 2020 are estimated at $1.4 billion with an additional $3.7 billion in lost future sales. Wineries are in no position to absorb additional layers of fees, reimbursements and penalties proposed in these bills. Such increases in the cost of doing business as proposed under this legislation would necessarily be passed on to Maryland consumers in the form of higher prices.

2) Effective EPR programs share responsibility between producers and consumers

Shared responsibility between producers and consumers is a common feature of successful EPR programs outside the US. While producers pay membership fees to support a PRO to conduct assessments and propose goals, consumers must also assume some responsibility. Consumer responsibility initiatives should be outlined in preliminary statewide needs assessments and can take various forms, such as:

- “Pay as you throw” waste policies that charge consumers for garbage collection and hauling by weight, incentivizing consumers to recycle as much as possible to reduce their garbage bill;
- Charging “tipping fees” so it is not cheaper to landfill than to recycle. If tipping fees increase or there are penalties to waste companies that landfill recyclables, waste companies will raise rates, also incentivizing consumers to recycle as much material as possible;
- Paying a non-refundable “eco fee” or “container recycling fee” at the time of purchase; and
- Eliminating single stream recycling, which requires additional consumer labor to separate materials into various bins to keep other recyclable material from contaminating glass, for example.

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